BEFORE THE COMMITTEE ON COMMERCE

SUBCOMMITTEE ON ENERGY AND POWER

IN RE: Electric Restructuring Legislation

COMMENTS OF THE CONSUMERS' UTILITY COUNSEL DIVISION OF THE GOVERNOR'S OFFICE OF CONSUMER AFFAIRS

I. Introduction

Most parties that wish to move quickly towards deregulation assert that competition will provide savings for all customer classes. This proposition must be carefully examined prior to restructuring the electric industry. In its May 20, 1997, Written Comments to the Georgia Public Service Commission for its Electric Restructuring Workshops, Docket 7313-U, Georgia Power Company cautioned against structuring retail competition such that it would merely shift costs between customer classes. (p. 14). The Consumers' Utility Counsel ("CUC") Division of the Governor's Office of Consumer Affairs is pleased to know that this is a concern shared with it by this utility.

If the deregulated market does not offer adequate customer choice for the smaller users, then the protections of regulation are still needed. It is not sound public policy to subject those customers who lack the sophistication or bargaining power to take advantage of competition to increased costs so that large users can realize savings.

CUC is not arguing that any form of deregulation will be fatally flawed, only that a move to deregulation must be done with caution to ensure that the interests of all parties are protected.

II. The Benefits and Risks of Deregulation

The most significant potential benefit to customers from deregulation is customer choice. Price will obviously be an important factor for most customers making the selection. However, other factors, such as reliability of service and variety of rate options may also matter to some customers. What will matter is that the individual customer will have the opportunity to make an informed selection of a power supplier.

Restructuring the industry carries with it numerous risks as well as potential benefits. For deregulation to work, meaningful customer choice must exist for all customers. If customer choice exists for only the large industrial users, then the residential and small commercial customers may be left with nothing more than an unregulated monopoly. This is on of the dangers potentially inherent in a mandated time table. Electricity is a necessity, not a luxury, and no customers should be put in the position of not being able to afford reliable electric service.

One major advantage of the current structure of the electric industry is the quality of service customers receive. A danger in restructuring is opening the door to a lot of free-wheeling participants that engage in various customer abuses and deception. As has been experienced in telecommunications, deregulation will likely place residential and small commercial customers at an increased risk of fraud. It will also be important to have the necessary review procedures in place in order to ensure that customers continue to receive safe and reliable service.

The overwhelming amounts of new information and the complexity of the changes involved in any restructuring plan may contribute to customer confusion. Competition in telecommunications is an illustration of how the hype surrounding the different carriers makes it difficult for the customer to decipher which is really the best deal for service.

Privacy concerns will also be raised in a move towards competition. It is imperative that competitive interests do not compromise the customers' right to privacy.

Finally, under the current regulatory framework, customers benefit from the cooperative relationships between utilities in handling crises and sharing resources. This cooperation may be placed at risk when utilities are competing with each other for the same large customers.

In particular among the residential class of customers, the elderly and rural customers are at a greater risk under a retail wheeling environment. The elderly may "lack the expertise or flexibility needed to take advantage of the supposed benefits of customer choice."[1] Rural cooperatives, a major player in Georgia, often serve only a few large customers. If one of these customers leaves for another supplier, the cooperative may look to its captive customers to make up this revenue loss. Because of how few large customers the rural cooperative has, the loss of one could result in an especially dramatic rate increase to the remaining customers.

III. Electric Restructuring in the Georgia Context

The pros and cons of a competitive electric industry should be examined in light of the particular circumstances in Georgia. In evaluating the benefits of any proposed change, it is necessary to compare it to the status quo. In many of the first wave of states to implement specific restructuring plans, the rates for electricity were at the high end of the national spectrum. Therefore, there was a significant opportunity for savings and strong pressures to restructure.

Georgia's electricity rates are reasonable relative to the rest of the country. Because of this, the proposition of taking on increased risks in the hopes of achieving a savings is less attractive than in many of the states that have already moved forward with specific restructuring plans. That other states may move rapidly towards deregulating the industry does not mean that similar action must be in the best interests of the ratepayers

[1] Clemente, The Dark Side of Deregulation, Public Utilities Fortnightly, May 15, 1996 at 14.

of Georgia.

This consideration should guide the investigation into structuring a careful move towards deregulation of the electric industry in Georgia. It is important to examine the benefits of competition; however, any movement towards deregulation should be done with caution.

IV. Stranded Cost Recovery

A fair resolution to the stranded costs issue will be necessary for restructuring to be a success. Any determination on the allocation of stranded costs should consider the signs in the industry that restructuring has been on its way and what treatment would provide the utilities with the proper incentives for mitigating these costs. The determination should also consider which customers are responsible for the creation of the stranded assets.

If a restructuring goal shared by all parties is to ensure that all classes benefit from competition, then this goal must drive the issue of stranded costs as well. The transition to competition in the electric industry should be viewed differently than if competition already was complete and no further lingering issues needed to be addressed. Stranded costs cannot be placed on the backs of the same customers that will have the most difficult time taking advantage of customer choice if these customers as well are supposed to benefit from restructuring the industry.

V. Necessary Safeguards for Restructuring

The term reregulation is most likely a more accurate term for what will occur in the electric industry than deregulation. And in fact, retail competition will not mean that no further regulatory safeguards will be needed to protect residential and small commercial ratepayers. Even in a restructured environment, the incumbent utility should provide service to those customers that were not able to receive service from an aggregate. It would seem that this is a necessary safeguard in case of insufficient customer choice.

Also, safeguards should exist comparable to the recently passed natural gas deregulation legislation in Georgia. While it is difficult to state what those specific measures should be when there remains uncertainty over what form electric restructuring will take, the principles that guided the natural gas legislation should come into play in electricity as well.

Most importantly, the protections in the natural gas legislation seek to ensure that competition will not work to the detriment of any customer class. Safeguards need to bestow upon the Public Service Commission the authority to reach determinations about whether adequate competition exists in a given area and whether a particular supplier is suitable for retail access.

Restructuring should also provide affected individuals, agencies, companies, firms, partnerships or associations the right to intervene in and challenge a Commission decision with respect to this subject matter.

VI. The Appropriate Federal Role

Although restructuring of the electric industry will necessarily require some federal instruction, that instruction, based on the experiences in telephone, should be minimal and only occur when critical. Two examples are of particular concern. First, there should be uniform national review regarding acquisitions, mergers, and other "co-ventures" by electric suppliers. This function cannot be fulfilled on a state by state basis without creating regulatory chaos. Secondly, there may be certain impediments to "moving electrons" across state lines with which the federal government will have to deal.

Other potential federal concerns may arise, but otherwise federal government intervention may only serve to impede a natural progression to reregulation. Certainly any states which see themselves falling behind in electric efficiencies and prices, will naturally jump into the fray. But for the federal government to mandate that a state must participate in restructuring is only to invite problems for consumers in those states where there was really no need to restructure. Accordingly we respectfully suggest that the Congress redirect its efforts to areas where its help is actually needed.

VII. Conclusion

CUC is grateful for the opportunity to express its opinions on restructuring the electric industry and applauds the Committee on Commerce Subcommittee on Energy and Power for taking the time to learn the positions of the affected parties on this important issue.

The potential benefits to ratepayers of competition are worth exploring. CUC cautions, however, that other valuable public policy considerations of fairness and safety should not sacrificed in a rush to achieve full competition. It is imperative that restructuring does not result in either merely shifting costs from one customer class to another or a reduction in the quality of service for any customer classes. These goals must be ensured prior to moving forward with a specific restructuring plan.

Respectfully submitted, this ______ day of April, 1997

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